



THE COMMONWEALTH OF MASSACHUSETTS

Office of the Secretary of the Commonwealth

Regulation Filing *To be completed by filing agency*

CHAPTER NUMBER: 301 CMR 21.00

CHAPTER TITLE: COASTAL ZONE MANAGEMENT / FEDERAL CONSISTENCY REVIEW

AGENCY: COASTAL ZONE MANAGEMENT

SUMMARY OF REGULATION

State the general requirements and purposes of this regulation:

UPDATE CITATIONS IN 301 CMR 21.98(12) AUTHORITIES FOR PROGRAM POLICIES.

REGULATORY AUTHORITY: GL. CZ1A, SS.2 and 4A

AGENCY CONTACT: SUSAN SNOW COTTER PHONE: 727-9530

ADDRESS: COASTAL ZONE MANAGEMENT, 100 CAMBRIDGE STREET, BOSTON, MA 02202

Compliance with M.G.L. c. 30A

EMERGENCY ADOPTION

If this regulation is adopted as an emergency regulation, state the nature of the emergency.

PRIOR NOTIFICATION AND/OR APPROVAL

If prior notification to and/or approval of the Governor, legislature or others was required, list each notification, approval and date, including notice to the Local Government Advisory Commission:

PUBLIC REVIEW

Was notice of the hearing or comment period filed with the Secretary of State published in appropriate newspapers and sent to persons to whom specific notice must be given at least 21 days prior to such hearing or comment period?

Yes ☒ Date of public hearing or comment period: comment period ended 2/15/99

FISCAL EFFECT

Estimate the fiscal effect on the public and private sectors:

For the first and second years:

For the first five years:

No fiscal effect:

NO FISCAL EFFECT ANTICIPATED

SMALL BUSINESS IMPACT

State the impact of this regulation on small business. Include a description of reporting, record keeping and other compliance requirements as well as the appropriateness of performance versus design standards and whether this regulation duplicates or conflicts with any other regulation. If the purpose of this regulation is to set rates for the state this section does not apply.

NO IMPACT TO SMALL BUSINESSES ANTICIPATED

CODE OF MASSACHUSETTS REGULATIONS INDEX

List key subjects entries that are relevant to this regulation.

PROMULGATION

State the action taken by this regulation and its effect on existing provisions of the Code of Massachusetts Regulations (CMR) to repeal, replace or amend. List by CMR number:

ATTESTATION

The regulation described herein and attached hereto is a true copy of the regulation adopted by this agency. ATTEST:

Signature: *William Francis Galvin*

Date: 4/14/99

Publication To be completed by the Regulations Division

MASSACHUSETTS REGISTER NUMBER: 869

DATE: 5/14/99

EFFECTIVE DATE: 5/14/99

CODE OF MASSACHUSETTS REGULATIONS

Remove these pages:

Insert these pages:

CMR: Vol.

175-194

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A TRUE COPY ATTEST

William Francis Galvin

WILLIAM FRANCIS GALVIN
SECRETARY OF THE COMMONWEALTH

DATE 4/27/99 CLERK *M. L.*

301 CMR 21.00: COASTAL ZONE MANAGEMENT PROGRAM FEDERAL CONSISTENCY
REVIEW PROCEDURES

Section

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21.01: Authorities

- (1) Federal Authority. 301 CMR 21.00 is promulgated pursuant to the federal Coastal Zone Management Act of 1972, as amended (16 U.S.C. 1451 *et seq.*), and 15 CFR 930, as amended.
- (2) State Authority. 301 CMR 21.00 is promulgated by the Secretary of the Massachusetts Executive Office of Environmental Affairs (EOEA) pursuant to the authority granted under M.G.L. c. 21A, §§ 2, 4A.

21.02: Purpose

301 CMR 21.00 is promulgated to carry out the purposes of the federal Coastal Zone Management Act and to specify the manner in which the Massachusetts Coastal Zone Management Program will implement federal consistency review. Further information regarding federal consistency review, and copies of the policy guidance documents referenced herein, may be obtained from:

MCZM Project Review Coordinator
Massachusetts Coastal Zone Management Office
100 Cambridge Street, 20th floor
Boston, MA 02202

21.03: Jurisdiction

The Massachusetts Coastal Zone Management Program (MCZM) may review activities in accordance with 301 CMR 21.00 and 15 CFR 930.00 for consistency with the program policies enumerated in 301 CMR 21.98 and the MCZM Plan. The geographic scope of MCZM's jurisdiction includes the Coastal Zone as described in 301 CMR 21.05, and activities in adjacent marine waters, in adjacent state waters, or in Massachusetts coastal watersheds if the activity can reasonably be expected to affect the resources or land or water uses of the Massachusetts Coastal Zone. Therefore, federal consistency activities listed in 301 CMR 21.07, 21.08, 21.09 and 21.10 are subject to routine consistency review by the Commonwealth.

MCZM looks to established environmental review thresholds to gauge when projects significantly impact the Coastal Zone, and cooperates with federal regulatory agencies to develop general permits for projects of minimal environmental impact. Upon request, the MCZM Office will make a determination of MCZM's jurisdiction over specific activities.

21.04: Activities Subject to Federal Consistency Review

- (1) Federal activities or development projects are subject to federal consistency review according to the procedures set forth at 301 CMR 21.07 if they are:
 - (a) activities or development projects listed at 301 CMR 21.07(2)(a);
 - (b) development projects within or affecting the Massachusetts Coastal Zone; or
 - (c) activities that a federal agency determines can reasonably be expected to affect the Massachusetts Coastal Zone.
- (2) Activities that require a federal license or permit are subject to federal consistency review according to the procedures set forth at 301 CMR 21.08 if they are:
 - (a) activities that are listed at 301 CMR 21.08(2)(a); or
 - (b) unlisted activities that are approved for review by OCRM in accordance with 301 CMR 21.08(2)(b).
- (3) Outer Continental Shelf (OCS) Exploration, Development and Production Activities are subject to federal consistency review according to the procedures set forth at 301 CMR 21.09.
- (4) Federal assistance to activities of state and local governments is subject to federal consistency review according to the procedures set forth at 301 CMR 21.10 if it is:
 - (a) listed at 301 CMR 21.10(a); or
 - (b) unlisted activities that are approved for review by OCRM in accordance with 301 CMR 21.10(2)(b).

21.05: Definitions

Activity means a direct federal activity or development project; a project which requires a federal license or permit; a project related to outer continental shelf (OCS) exploration, development and production activities; or a state or local project that receives federal assistance.

Applicant means an individual or organization, except a federal agency, who applies for a federal license or permit to conduct an activity affecting land or water use or resources of the Coastal Zone.

Applicant Agency means a state agency, city, county, special purpose district, or regional body which submits an application for federal financial assistance.

Appropriate EOE Agency means an EOE agency whose activities, authority, jurisdiction or concerns are conducted in the Coastal Zone, are identified in the MCZM Program, or are otherwise affected by or responsible for carrying out the policies of the MCZM Program.

Certification see Permit.

Coastal Zone means that area bounded by the outer limit of the Commonwealth's jurisdiction as established by the United States from time to time; the northern and southern lateral seaward boundaries of the Commonwealth as established by interstate compact, agreement, judicial decision, or as otherwise provided by law; and 100 feet inland of the roads, rail lines, or rights of way delimited in the MCZM Coastal Atlas. The Coastal Zone includes all of Barnstable County and all islands contained within the delineated area, including specifically Martha's Vineyard, Nantucket, and the Elizabeth Islands, but excludes federal lands. The Coastal Zone also includes the following areas inland of the roads, rail lines, and rights of way described in the Boundary Appendix: intertidal areas, coastal wetlands and beaches, tidal rivers and adjacent uplands to the maximum extent of vegetation affected by measurable saline water, and anadromous/catadromous fish runs to the inland boundary of the coastal town, and extends in width to 100 feet inland of the 100 year floodplain along such tidal rivers or anadromous/catadromous fish runs.

Coastal Zone Management Act (CZMA) means the federal Coastal Zone Management Act of 1972 (16 U.S.C. 1451 *et seq.*), as amended.

21.05: continued

Director of OCRM means the Director of the Office of Ocean and Coastal Resource Management, National Oceanic and Atmospheric Administration, U.S. Department of Commerce.

Environmental Monitor means the semi-monthly publication of proposed actions and projects which require filings with the Secretary pursuant to M.G.L. c. 30, §§ 61 through 62H and described in 301 CMR 11.00.

Executive Office of Environmental Affairs (EOEA) means the agency created by M.G.L. c. 21A.

Federal Activity means any function performed by or on behalf of a federal agency in the exercise of its statutory responsibilities. The term does not include issuance of a federal license or permit to an applicant or person, or grant of federal assistance to an applicant agency.

Federal Agency means any department, agency, or other organization within the executive branch of the federal government, or any wholly owned federal government corporation.

Federal Assistance means assistance provided under a federal program to an applicant agency through grant or contractual arrangements, loans, subsidies, guarantees, insurance or other form of financial aid.

Federal Consistency Certification means a statement by an applicant or person that the proposed activity complies with and will be conducted in a manner that is consistent with the MCZM program policies.

Federal Consistency Determination means a determination by a federal agency, supported by findings, that a proposed federal activity in or affecting the resources of the Massachusetts Coastal Zone complies with and will be conducted in a manner that is consistent to the maximum extent practicable with the MCZM program policies unless compliance is prohibited based on existing law applicable to the federal agency.

Federal Development Project means a federal activity involving the planning, construction, modification, or removal of public works, facilities or other structures, and the acquisition, utilization, or disposal of land or water resources.

Federal License or Permit means any authorization, certification, approval or other form of permission which a federal agency is empowered to issue to an applicant, and renewals and major amendments of federal license and permit activities which:

- (a) were not previously reviewed by MCZM;
- (b) were previously reviewed by MCZM and which are filed after and subject to management program amendments not in existence at the time of MCZM's review; or
- (c) were previously reviewed by MCZM and which will cause coastal zone effects substantially different than those previously reviewed by MCZM.

License see Permit.

Listed Activities means those activities listed in 301 CMR 21.00 which MCZM has determined to be reasonably likely to affect the Coastal Zone.

Management Principles means the MCZM policies which do not have authority based on existing state environmental statute or regulation, and are therefore not enforceable under existing state law, but which provide guidance to proponents of activities in the Coastal Zone. Management principles are listed in 301 CMR 21.98: *Policy Appendix*.

MCZM Office means that office established within the Office of the Secretary of Environmental Affairs pursuant to M.G.L. 21A, § 4A.

21.05: continued

MCZM Program or MCZM Plan means the MCZM program policies, as amended, the Final Environmental Impact Statement (FEIS) and Report (FEIR), Volume I and II (the Coastal Atlas) of the draft MCZM Program (DEIS), and regulations, designations (*e.g.* Areas of Critical Environmental Concern), memoranda of understanding and other implementing actions, including amendments thereto as approved by NOAA.

MEPA means the Massachusetts Environmental Policy Act, M.G.L. c. 30, §§ 61 through 62H, as amended, and 310 CMR 11.00.

NEPA means the National Environmental Policy Act of 1969, 42 U.S.C. 4321 *et seq.*, P.L. 91-190, 83 Stat. 852.

OCRM means the Office of Ocean and Coastal Resource Management, National Oceanic and Atmospheric Administration, U.S. Department of Commerce.

OCS Plan means a plan for the exploration or development of, or production from, any area which has been leased under the Outer Continental Shelf Lands Act (43 U.S.C. § 1331 *et seq.*) and regulations, which is submitted to the Secretary of the Interior or its designee which describes in detail federal license or permit activities.

Permit means any authorization, certification, approval or other form of permission which a federal or state agency is empowered to issue to an applicant, including the issuance of a lease, license, permit, certificate, variance, approval or other entitlement for use, or any renewal or amendment granted thereto.

Person means any individual, corporation, partnership, association, or other entity organized or existing under the laws of any state, regional or local government, or any entity of such federal, state, regional or local government who submits to the Secretary of the Interior or designee, following management plan approval, an OCS Plan which describes in detail federal license or permit activities.

Program Policies means MCZM's federally approved program policies which are enforceable under state statute and regulation. MCZM's federal consistency review is based on its program policies. The policies and their authorities are found at 301 CMR 21.98: *Policy Appendix*.

Unlisted Activity means activities that are not listed in 301 CMR 21.00 but which may reasonably be expected to affect the Coastal Zone.

21.06: Review Procedures - Federal Activities or Development Projects In or Affecting the Coastal Zone

(1) MCZM and federal agencies shall follow the requirements set forth in 15 CFR 930 Subpart C, as amended, in determining the consistency, to the maximum extent practicable, of federal activities in or affecting the Massachusetts Coastal Zone with MCZM program policies.

(2) Federal Activities or Development Projects Which are Likely to Affect the Massachusetts Coastal Zone.

(a) Listed Activities or development projects that MCZM will routinely review for federal consistency include:

1. Army Corps of Engineers (ACOE):
 - a. project authorization for dredging, channel works, breakwaters, other navigational works, erosion control structures, beach replenishment, dams;
 - b. selection of disposal sites for dredged material from federal harbors and navigation channels, other navigation works, erosion control structures, beach replenishment, dams;
 - c. real property acquisition or disposal;
2. Department of Defense (DOD):
 - a. location, design, construction or disposal of new or enlarged defense installations.
3. Department of Transportation (DOT):

21.06: continued

- a. Federal Aviation Administration (FAA): location, design, construction or disposal of aviation communication or air navigation facilities;
- b. United States Coast Guard (USCG): location, design, construction, enlargement or disposal of Coast Guard facilities.
- 4. Department of Interior (DOI):
 - a. Bureau of Land Management: oil and gas leasing on federal lands including Outer Continental Shelf lease sales;
 - b. National Park Service: location, design, construction or disposal of facilities, or real property acquisition or disposal;
 - c. Fisheries and Wildlife Service: location, design, construction or disposal of facilities, or real property acquisition or disposal.
- 5. General Services Administration (GSA):
 - a. location, design, construction or disposal of federal facilities;
 - b. real property acquisition or disposal.
- 6. Amtrak, Conrail:
 - a. railroad expansion, construction or abandonments.

(b) Unlisted Activities. The MCZM Office shall monitor federal activities and development projects not listed in 301 CMR 21.07(2)(a) through review of the *Federal Register*, NEPA environmental impact statements, information provided by citizens and other appropriate means. The MCZM Office shall notify federal agencies of unlisted federal activities or development projects which the MCZM Office believes to require a federal consistency determination because they affect a land or water use or resource of the Coastal Zone. Such notification shall take place within 45 days of receipt by the MCZM Office of notice of the unlisted federal activity or development project. If MCZM fails to provide such notice, consistency may be presumed.

(c) Negative Determination. If a federal agency believes that a consistency determination is not required for a federal activity or development project and issues a negative determination in accordance with 15 CFR 930 Subpart C, as amended, the MCZM Office shall review the negative determination. In the event of a disagreement regarding a negative determination, the MCZM Office may seek relief as described herein under 301 CMR 21.07(4) *Conflict Resolution*.

(3) Federal Consistency Review.

(a) Completeness Review. MCZM shall review a federal consistency determination by a federal agency for completeness in accordance with the requirements of 15 CFR 930 Subpart C, as amended, and shall promptly notify the federal agency if the determination is not complete. MCZM's review shall begin on the date that the complete determination was received in its offices.

(b) Public Comment. Upon receipt of a complete consistency determination MCZM shall publish notice of the proposed activity or development project in the next available edition of the *Environmental Monitor*. The notice shall include a summary of the proposed activity or development project, its location, a statement that the consistency determination and any accompanying information are available for public inspection, and that public comments will be received by MCZM for 21 days following the publication date.

(c) Public Hearings. The MCZM Office may hold one or more public hearings regarding a consistency determination. At least 21 days prior to the hearing, the MCZM Office shall publish notice of the hearing in appropriate newspapers and the *Environmental Monitor*. The notice shall include a summary of the proposed activity, its location, a statement that the consistency determination and any accompanying information is available for public inspection at the MCZM Office or elsewhere, and a statement of the time and place of the hearing. The notice shall state that additional written comments on the proposed activity will be accepted by MCZM for ten days following the close of the hearing. The MCZM Office shall make every effort to combine the hearing with any other federal or state agency hearings.

(d) Review Time Table. The MCZM Office shall review the consistency determination in order to inform the federal agency of its concurrence with or objection to its consistency determination at the earliest practicable time. If MCZM has not concurred or objected within 45 days of the receipt of the consistency determination, the MCZM Office shall, at that time, inform the federal agency of the status of the matter and the basis for further delay.

21.06: continued

- (e) Extension of Time for Review. MCZM concurrence shall not be presumed in cases where MCZM has, within the 45 day review period, requested an extension of review time. Federal agencies shall approve one request for an extension of 15 days or less. Additional review time may be arranged by mutual consent of MCZM and the federal agency.
- (f) Concurrence. The MCZM Office shall concur with or object to a federal consistency determination on the basis of MCZM's program policies and their implementing state regulations. MCZM shall consult with appropriate EOEAs, as necessary. MCZM's decision shall be contingent on prior receipt of all other necessary state licenses, permits and certifications. In the absence of MCZM's concurrence or objection within the review time table defined in 301 CMR 21.07(3)(d) and (e), consistency may be conclusively presumed.
- (g) Objections. MCZM may object to a federal consistency determination if applicable state licenses, permits or certifications have not been received at the close of its review time table defined 301 CMR 21.07(3)(d) and (e), or if the proposed activity is not consistent with MCZM's program policies. MCZM shall notify the federal agency and the Director of OCRM of its objection. Such notification shall include:
1. a statement as to how the proposed activity is inconsistent with specific elements of the MCZM program policies;
 2. alternative measures which, if adopted by the federal agency, would permit the proposed activity to be conducted in a manner consistent with the MCZM program policies;
 3. if the objection is based on the failure of the federal agency to supply adequate information under 301 CMR 21.00, the nature of the information requested and the necessity of having such information; and
 4. a statement informing the federal agency of the availability of negotiation and mediation procedures by the Secretary of Commerce in accordance with 15 CFR 930 Subpart G, as amended.
- (4) Conflict Resolution. For conflicts or disputes arising from determinations made pursuant to 301 CMR 21.07, MCZM shall employ the following procedures established in federal regulations:
- (a) Negative Determination Disputes. 15 CFR 930 Subpart C, as amended;
 - (b) Disputes Concerning Proposed Activities. 15 CFR 930 Subpart C, as amended;
 - (c) Disputes Concerning Previously Reviewed Activities. 15 CFR 930 Subpart C, as amended.

21.07: Review Procedures - Federal License or Permit In or Affecting the Coastal Zone

- (1) The MCZM Office and applicants shall follow the requirements of 15 CFR 930 Subpart D, as amended, in determining the consistency of projects requiring a federal license or permit in or affecting the land or water uses or resources of the Massachusetts Coastal Zone with MCZM program policies.
- (2) Activities Requiring Federal Licenses or Permits Which are Likely to Affect the Massachusetts Coastal Zone.
- (a) Listed Activities. Activities conducted by an applicant that require a federal license or permit and which will be routinely reviewed for consistency include:
1. Army Corps of Engineers (ACOE):
 - a. Federal Water Pollution Control Act (33 U.S.C. § 1344), as amended, § 404 permit for the discharge of dredged or fill materials in navigable waters;
 - b. River and Harbor Act (33 U.S.C. § 403, § 404, § 405), as amended, § 10 permit for obstruction or alteration of navigable waters, and § 11 for establishment of harbor lines;
 - c. Outer Continental Shelf Lands Act (43 U.S.C. § 1333(f)), as amended, § 4(f) permit for artificial islands, installations or other devices permanently or temporarily attached to the seabed of the Outer Continental Shelf;
 - d. Marine Protection, Research and Sanctuaries Act (16 U.S.C. § 1413), as amended, § 103 for transportation of dredged spoil for the purpose of dumping it in ocean waters.

21.07: continued

2. Department of Commerce (DOC):
 - a. Marine Protection, Research and Sanctuaries Act (16 U.S.C. § 1434(b)), as amended, § 304(b) approval of activities affecting marine sanctuaries.
 3. Department of the Interior (DOI):
 - a. Outer Continental Shelf Lands Act (43 U.S.C. § 1334(e)), as amended, § 5(e) granting rights of way for oil and gas pipelines in the Outer Continental Shelf;
 - b. Endangered Species Act (33 U.S.C. § 1539), as amended, § 10 endangered species permits issued by U.S. Fish and Wildlife Service.
 4. Department of Transportation (DOT):
 - a. Deep Water Ports Act (33 U.S.C. § 1593), as amended, § 4 license;
 - b. River and Harbor Act (33 U.S.C. § 401), as amended, § 9 permit for construction or modification of bridge structures across navigable waters;
 - c. Regattas and Marine Parades (33 U.S.C. 1233), as amended, Marine Event permit.
 5. Environmental Protection Agency (EPA):
 - a. Federal Water Pollution Control Act (33 U.S.C. § 1342, § 1344), as amended, §§ 402 and 404, NPDES permit and ocean dumping activity, respectively;
 - b. Federal Water Pollution Control Act (33 U.S.C. §§ 1412 through 1414), as amended, §§ 102 through 104 ocean dumping permit issued in conjunction with ACOE.
 6. Nuclear Regulatory Commission (NRC):
 - a. Energy Reorganization Act (42 U.S.C. § 5841(f)), as amended, § 201 license for construction and operation of nuclear power plant.
- (b) Unlisted Activities. The MCZM Office will monitor applications for federal licenses and permits not listed in 301 CMR 21.08(2)(a) through review of the *Federal Register*, NEPA environmental impact statements, information provided by citizens and other appropriate means. The MCZM Office shall notify the federal agency, the applicant and the Director of OCRM of unlisted license and permit activities which the MCZM Office intends to review for consistency because they affect the land or water uses or resources of the Coastal Zone. The notice must request the approval of the Director of OCRM to review the activity. Such notification to the federal permitting agency, the applicant and the Director of OCRM shall take place within 30 days of receipt of notice by the MCZM Office of the license or permit application. If MCZM fails to provide such notice, consistency may be presumed. If the Director of OCRM does not approve, MCZM may not review the activity for consistency.
- (3) Federal Consistency Review.
- (a) Federal Consistency Certification. An applicant for a federal license or permit under this section shall provide the following information, as applicable, to the MCZM Office for use in determining consistency with MCZM program policies:
 1. A federal consistency certification that includes:
 - a. a brief description of the proposed activity or project;
 - b. a certification that "The proposed activity complies with the program policies of the Massachusetts approved coastal management program and will be conducted in a manner consistent with such policies."; and
 - c. a justification of that statement in light of MCZM's program policies;
 2. A copy of the federal permit application or, in the case of an NPDES permit application, a copy of the draft permit;
 3. If MEPA has jurisdiction over the project, a copy of the final Secretarial Certificate indicating that no Environmental Impact Report (EIR) is required or that the EIR adequately and properly complies with MEPA;
 4. Additional information specified in the MCZM Program Plan or program policies as necessary for the evaluation of the proposed activity.
 - (b) Completeness Review. Upon receipt of a federal consistency certification MCZM shall review it for completeness in accordance with 301 CMR 21.08(3)(a). When the certification is complete, MCZM shall notify the applicant that MCZM's review shall begin on the date that the complete certification was received in its offices, and of the review schedule.

21.07: continued

(c) Public Comment. Upon receipt of a complete consistency certification MCZM shall publish notice of the proposed license or permit in the next available edition of the *Environmental Monitor*. The notice shall include a summary of the proposed license or permit, its location, a statement that the consistency certification and any accompanying information are available for public inspection, and that public comments will be received by MCZM for 21 days following the publication date.

(d) Public Hearings. The MCZM Office may hold one or more public hearings regarding a consistency certification. At least 21 days prior to the hearing, the MCZM Office shall publish notice of the hearing in appropriate newspapers and the *Environmental Monitor*. The notice shall include a summary of the proposed activity, its location, a statement that the consistency certification and any accompanying information is available for public inspection at the MCZM Office or elsewhere, and a statement of the time and place of the hearing. The notice shall state that additional written comments on the proposed activity will be accepted by MCZM for ten days following the close of the hearing. The MCZM Office shall make every effort to combine the hearing with any other federal or state agency hearings.

(e) Review Time Table. The MCZM Office shall notify the federal permitting agency and the applicant of its concurrence with or objection to a consistency certification at the earliest practicable time. No decision can be made by the MCZM Office until the close of the public comment period. If the MCZM Office has not issued a decision within three months of the commencement of its review as defined in 301 CMR 21.08(3)(b) it shall notify the applicant and the federal permitting agency of the status of the review and the basis for further delay. In all cases, MCZM shall issue a decision within six months of the commencement of its review as defined in 301 CMR 21.08(3)(b).

(f) Concurrence. The MCZM Office shall concur with or object to a federal consistency certification on the basis of MCZM's program policies and their implementing state regulations. MCZM shall consult with appropriate EOEAs, as necessary. MCZM's decision shall be contingent on prior receipt of all other necessary state licenses, permits and certifications. In the absence of MCZM's concurrence or objection within the review time table defined for the proposed activity, consistency may be conclusively presumed.

(g) Objections. MCZM may object to a federal consistency certification if applicable state licenses, permits or certifications have not been received at the close of its review time table defined in 301 CMR 21.08(3)(b), or if the proposed activity is not consistent with MCZM's program policies. MCZM shall notify the applicant and the Director of OCRM of its objection. Such notification shall include:

1. a statement as to how the proposed activity is inconsistent with specific elements of the MCZM program policies;
2. alternative measures which, if adopted by the applicant, would permit the proposed activity to be conducted in a manner consistent with the MCZM program policies;
3. if the objection is based on the failure of the applicant to supply adequate information under 301 CMR 21.00, the nature of the information requested and the necessity of having such information; and
4. a statement informing the applicant of a right of appeal to the Secretary of Commerce in accordance with 15 CFR 930 Subpart H, as amended.

(4) Conflict Resolution. For conflicts or disputes arising from determinations made pursuant to 301 CMR 21.08 MCZM shall employ the procedures established in federal regulation in 15 CFR 930 Subpart D, as amended.

21.08: Review Procedures - Outer Continental Shelf(OCS) Exploration, Development and Production Activities

(1) The MCZM Office and persons shall follow the requirements set forth in the federal consistency regulations, 15 CFR 930 Subpart E, as amended, regarding federal license and permit activities described in detail in OCS Plans which affect the Coastal Zone.

21.08: continued

(2) OCS Activities Which are Likely to Affect the Massachusetts Coastal Zone. Preparation of any OCS Plan for the exploration or development of, or production from, any area which has been leased under the Outer Continental Lands Act (43 U.S.C. § 1331, as amended) and regulations, which has been submitted to the Secretary of the Interior or designee and which describes in detail federal license or permit activities, or amended OCS Plans submitted in response to objections of the MCZM Office to a previously submitted plan, which are likely to affect the Massachusetts Coastal Zone, as determined by the MCZM Office, shall be subject to MCZM's federal consistency review. Federal license or permit activities that are not required to be described in detail in the Plan shall be subject to 301 CMR 21.08.

(3) Federal Consistency Review.

(a) Consultation. The MCZM Office shall provide assistance to a person submitting material used in developing the assessments and findings required by 15 CFR 930 Subpart E, as amended.

(b) Application. Persons shall provide OCS Plans, accompanying consistency certifications and the information required by the federal consistency regulations, 15 CFR 930 Subpart E, as amended, to the MCZM Office for its federal consistency review.

(c) Completeness Review. Upon receipt of a federal consistency certification, MCZM shall review it for completeness in accordance with the requirements of 15 CFR 930 Subpart E, as amended, and shall notify the person when the certification is complete. MCZM's review shall begin on the date that the complete certification was received in its offices.

(d) Public Comment. Upon receipt of a complete consistency certification MCZM shall publish notice of the proposed activity in the next available edition of the *Environmental Monitor*. The notice shall include a summary of the proposed activity, its location, a statement that the consistency certification and any accompanying information are available for public inspection, and that public comments will be received by MCZM for 21 days following the publication date.

(e) Public Hearings. The MCZM Office may hold one or more public hearings regarding a consistency certification. At least 21 days prior to the hearing, the MCZM Office shall publish notice of the hearing in appropriate newspapers and the *Environmental Monitor*. The notice shall include a summary of the proposed activity, its location, a statement that the consistency certification and any accompanying information is available for public inspection at the MCZM Office or elsewhere, and a statement of the time and place of the hearing. The notice shall state that additional written comments on the proposed activity will be accepted by MCZM for ten days following the close of the hearing. The MCZM Office shall make every effort to combine the hearing with any other federal or state agency hearings.

(f) Review Time Table. The MCZM Office shall notify the person of its concurrence with or objection to a consistency certification at the earliest practicable time. No decision can be made by the MCZM Office until the close of the public comment period. If the MCZM Office has not issued a decision within three months of the commencement of its review as defined in 301 CMR 21.09(3)(c), it shall notify the person of the status of the review and the basis for further delay. In all cases, MCZM shall issue a decision within six months of the commencement of its review as defined in 301 CMR 21.09(3)(c).

(g) Concurrence. The MCZM Office shall concur with or object to a federal consistency certification on the basis of MCZM's program policies and their implementing state regulations. MCZM shall consult with appropriate EOEAs, as necessary. MCZM's decision shall be contingent on prior receipt of all other necessary state licenses, permits and certifications. In the absence of MCZM's concurrence or objection within the review time table defined in 301 CMR 21.09(3)(c), consistency may be conclusively presumed.

(h) Objections. MCZM may object to a federal consistency certification if applicable state licenses, permits or certifications have not been received at the close of its review time table defined in 301 CMR 21.09(3)(c) or if the proposed activity is not consistent with MCZM's program policies. MCZM shall notify the person and the Director of OCRM of its objection. Such notification shall include:

1. a statement as to how the proposed activity is inconsistent with specific elements of the MCZM program policies;
2. alternative measures which, if adopted by the person, would permit the proposed activity to be conducted in a manner consistent with the MCZM program policies;

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3. if the objection is based on the failure of the person to supply adequate information under 301 CMR 21.00, the nature of the information requested and the necessity of having such information; and
4. a statement informing the person of a right of appeal to the Secretary of Commerce in accordance with 15 CFR 930 Subpart H, as amended.

(4) Conflict Resolution. For conflicts or disputes arising from determinations made pursuant to 301 CMR 21.09. MCZM shall employ the procedures established in 15 CFR 930 Subpart E, as amended.

(5) Project Monitoring. Copies of federal license and permit applications for activities described in detail in an OCS Plan which has received federal consistency concurrence shall be sent to the MCZM Office. Although such applications are not subject to further MCZM Office review, they shall be used for monitoring purposes under the authority of 15 CFR 930 Subpart E, as amended.

21.09: Review Procedures - Federal Assistance to State and Local Governments

(1) The MCZM Office and applicant agencies shall follow the requirements of federal consistency regulations, 15 CFR 930 Subpart F, as amended, regarding state and local government activities affecting the land or water uses or resources of the Massachusetts Coastal Zone that are supported by federal assistance.

(2) Federal Assistance Which is Likely to Affect the Massachusetts Coastal Zone.

(a) Listed Types of Federal Assistance. Federal Assistance which will be routinely reviewed for consistency include:

1. All activities seaward of a line 100 feet inland of the 100 year floodplain;
2. Any power generation, mineral extraction, wastewater treatment, or transportation facility.

(b) Unlisted Activities. The MCZM Office shall monitor applications for federal assistance not listed in 301 CMR 21.10(a) through review of the *Federal Register*, NEPA environmental impact statements, information provided by citizens and other appropriate means. The MCZM Office shall notify the federal agency, the applicant and the Director of OCRM of unlisted license and permit activities which the MCZM Office intends to review for consistency because they affect the land or water uses or resources of the Coastal Zone. The notice must request the approval of the Director of OCRM to review the activity. Such notification to the federal permitting agency, the applicant and the Director of OCRM shall take place within 30 days of receipt of notice by the MCZM Office of the license or permit application. If MCZM fails to provide such notice, consistency may be presumed. If the Director of OCRM does not approve, MCZM may not review the activity for consistency.

(3) Federal Consistency Review.

(a) Application. Upon receipt of a consistency certification and a copy of an application for federal assistance MCZM shall begin its review.

(b) Review Time Table. The MCZM Office shall review the application in order to inform the federal funding agency and the applicant agency at the earliest practicable time whether the applicant is consistent with its program policies. A response shall be issued within 30 days of the commencement of review.

(c) Concurrence. The MCZM Office shall concur with or object to an application on the basis of MCZM's program policies and their implementing state regulations. MCZM shall consult with appropriate EOEAs, as necessary. In the absence of MCZM's concurrence or objection within the review time table defined in 301 CMR 21.10(3)(b), consistency may be conclusively presumed.

(d) Objections. MCZM may object to an application if the proposed activity is not consistent with MCZM's program policies. MCZM shall notify the applicant and the Director of OCRM of its objection. Such notification shall include:

1. a statement as to how the proposed activity is inconsistent with specific elements of the MCZM program policies;

21.09: continued

2. alternative measures which, if adopted by the applicant agency, would permit the proposed activity to be conducted in a manner consistent with the MCZM program policies;
3. if the objection is based on the failure of the applicant agency to supply adequate information under these regulations, the nature of the information requested and the necessity of having such information; and
4. a statement informing the applicant of a right of appeal to the Secretary of Commerce in accordance with 15 CFR 930 Subpart H, as amended.

(4) Conflict Resolution. For conflicts or disputes arising from determinations made pursuant to 301 CMR 21.10, MCZM shall employ the following procedures established in federal regulation:

- (a) Federal Assistance Disputes. 15 CFR 930 Subpart F, as amended;
- (b) Previously Reviewed Activities. 15 CFR 930 Subpart F, as amended.

21.10: Review Procedures for Emergencies

Repair of immediate, demonstrable threats to public health and safety which are subject to MCZM's federal consistency review may proceed upon notification to and authorization by MCZM. The activity shall remain subject to MCZM's consistency review and an applicant must promptly apply for MCZM's federal consistency review for the emergency activities and any additional associated activities. Notwithstanding the above, federal agencies may respond to emergencies before notifying MCZM.

21.11: Availability of Secretarial Mediation

In the event of disagreements over the administration of the Massachusetts CZM Program, federal and state agencies may avail themselves of negotiation by OCRM, or mediation by the Secretary of Commerce established in federal regulation in 15 CFR 930 Subpart G, as amended.

21.12: Severability

If any provision of any part of 301 CMR 21.00 or the application thereof is found to be invalid by a court of law, such invalidity shall not affect any other provision of 301 CMR 21.00.

21.98: Policy Appendix

(1) Program policies (1997 Revision). The MCZM Program Plan establishes the following program policies which embody coastal policy for the Commonwealth of Massachusetts. Recognition of these statements as Massachusetts coastal policy is formalized in Memoranda of Understanding between MCZM and state environmental agencies. Projects subject to federal consistency review must be consistent with MCZM program policies. MCZM enforces its program policies through existing Massachusetts statutes and their implementing regulations.

In addition, MCZM participates in the Massachusetts Environmental Policy Act (MEPA) review process through which it identifies aspects of a proposed project that appear to be inconsistent with MCZM's program policies and recommends alternatives, where appropriate.

(2) Management principles. In addition, the federally-approved MCZM Program Plan lists management principles. These policy statements are not currently enforceable through existing state statutes and regulations. They are published as guidance to proponents of activities in the Coastal Zone and represent the preferred policy direction of MCZM. MCZM reviews all projects, whether for federal consistency or MEPA review, for consistency with management principles and may recommend alternatives or changes to projects in order to achieve consistency with the management principles.

Management principles may, with federal approval, become MCZM program policies if state statute or regulation is adopted embodying the principle. Notice of the change from management principle to program policy and the underlying authority for the change is published in the *Environmental Monitor*.

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(3) WATER QUALITY.

WATER QUALITY POLICY #1. Ensure that point-source discharges in or affecting the coastal zone are consistent with federally-approved state effluent limitations and water quality standards.

WATER QUALITY POLICY #2. Ensure that nonpoint pollution controls promote the attainment of state surface water quality standards in the coastal zone.

WATER QUALITY POLICY #3. Ensure that activities in or affecting the coastal zone conform to applicable state requirements governing sub-surface waste discharges and sources of air and water pollution and protection of wetlands.

(4) HABITAT.

HABITAT POLICY #1. Protect wetland areas including salt marshes, shellfish beds, dunes, beaches, barrier beaches, salt ponds, eel grass beds, and freshwater wetlands for their role as natural habitats.

HABITAT POLICY #2. Promote the restoration of degraded or former wetland resources in coastal areas and ensure that activities in coastal areas do not further wetland degradation but instead take advantage of opportunities to engage in wetland restoration.

(5) PROTECTED AREAS.

PROTECTED AREAS POLICY #1. Assure preservation, restoration, and enhancement of complexes of coastal resources of regional or statewide significance through the Areas of Critical Environmental Concern (ACEC) Program.

PROTECTED AREAS POLICY #2. Protect state and locally designated scenic rivers and state classified scenic rivers in the coastal zone.

PROTECTED AREAS POLICY #3. Review proposed developments in or near designated or registered historic districts or sites to ensure that the preservation intent is respected by federal, state, and private activities and that potential adverse effects are minimized.

(6) COASTAL HAZARDS.

COASTAL HAZARD POLICY #1. Preserve, protect, restore, and enhance the beneficial functions of storm damage prevention and flood control provided by natural coastal landforms, such as dunes, beaches, barrier beaches, coastal banks, land subject to coastal storm flowage, salt marshes, and land under the ocean.

COASTAL HAZARD POLICY #2. Ensure construction in water bodies and contiguous land areas will minimize interference with water circulation and sediment transport. Approve permits for flood or erosion control projects only when it has been determined that there will be no significant adverse effects on the project site or adjacent or downcoast areas.

COASTAL HAZARD POLICY #3. Ensure that state and federally funded public works projects proposed for location within the coastal zone will:

- not exacerbate existing hazards or damage natural buffers or other natural resources;
- be reasonably safe from flood and erosion related damage;
- not promote growth and development in hazard-prone or buffer areas, especially in Velocity zones and ACECs; and
- not be used on Coastal Barrier Resource Units for new or substantial reconstruction of structures in a manner inconsistent with the Coastal Barrier Resource/Improvement Acts.

COASTAL HAZARD POLICY #4. Prioritize public funds for acquisition of hazardous coastal areas for conservation or recreation use, and relocation of structures out of coastal high hazard areas, giving due consideration to the effects of coastal hazards at the location to the use and manageability of the area.

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(7) PORT AND HARBOR INFRASTRUCTURE.

PORTS POLICY #1. Ensure that dredging and disposal of dredged material minimize adverse effects on water quality, physical processes, marine productivity and public health.

PORTS POLICY #2. Promote the widest possible public benefit from channel dredging, ensuring that designated ports and developed harbors are given highest priority in the allocation of federal and state dredging funds. Ensure that this dredging is consistent with marine environment policies.

PORTS POLICY #3. Preserve and enhance the capacity of Designated Port Areas (DPAs) to accommodate water-dependent industrial uses, and prevent the exclusion of such uses from tidelands and any other DPA lands over which a state agency exerts control by virtue of ownership, regulatory authority, or other legal jurisdiction.

PORTS MANAGEMENT PRINCIPLE #1. Encourage, through technical and financial assistance, expansion of water dependent uses in designated ports and developed harbors, re-development of urban waterfronts, and expansion of visual access.

(8) PUBLIC ACCESS.

PUBLIC ACCESS MANAGEMENT PRINCIPLE #1. Improve public access to coastal recreation facilities and alleviate auto traffic and parking problems through improvements in public transportation. Link existing coastal recreation sites to each other or to nearby coastal inland facilities via trails for bicyclists, hikers, and equestrians, and via rivers for boaters.

PUBLIC ACCESS MANAGEMENT PRINCIPLE #2. Increase capacity of existing recreation areas by facilitating multiple use and by improving management, maintenance and public support facilities. Resolve conflicting uses whenever possible through improved management rather than through exclusion of uses.

PUBLIC ACCESS MANAGEMENT PRINCIPLE #3. Provide technical assistance to developers of private recreational facilities and sites that increase public access to the shoreline.

PUBLIC ACCESS MANAGEMENT PRINCIPLE #4. Expand existing recreation facilities and acquire and develop new public areas for coastal recreational activities. Give highest priority to expansions or new acquisitions in regions of high need or limited site availability. Assure that both transportation access and the recreational facilities are compatible with social and environmental characteristics of surrounding communities.

(9) ENERGY.

ENERGY POLICY #1. For coastally dependent energy facilities, consider siting in alternative coastal locations. For non-coastally dependent energy facilities, consider siting in areas outside of the coastal zone. Weigh the environmental and safety impacts of locating proposed energy facilities at alternative sites.

ENERGY MANAGEMENT PRINCIPLE #1. Encourage energy conservation and the use of alternative sources such as solar and wind power in order to assist in meeting the energy needs of the Commonwealth.

(10) OCEAN RESOURCES.

OCEAN RESOURCES POLICY #1. Support the development of environmentally sustainable aquaculture, both for commercial and enhancement (public shellfish stocking) purposes. Ensure that the review process regulating aquaculture facility sites (and access routes to those areas) protects ecologically significant resources (salt marshes, dunes, beaches, barrier beaches, and salt ponds) and minimizes adverse impacts upon the coastal and marine environment.

21.98: continued

OCEAN RESOURCES POLICY #2. Extraction of marine minerals will be considered in areas of state jurisdiction, except where prohibited by the MA Ocean Sanctuaries Act, where and when the protection of fisheries, air and marine water quality, marine resources, navigation and recreation can be assured.

OCEAN RESOURCES POLICY #3. Accommodate offshore sand and gravel mining needs in areas and in ways that will not adversely affect shoreline areas due to alteration of wave direction and dynamics, marine resources and navigation. Mining of sand and gravel, when and where permitted, will be primarily for the purpose of beach nourishment.

(11) GROWTH MANAGEMENT.

GROWTH MANAGEMENT PRINCIPLE #1 . Encourage, through technical assistance and review of publicly funded development, compatibility of proposed development with local community character and scenic resources.

GROWTH MANAGEMENT PRINCIPLE #2. Ensure that state and federally funded transportation and wastewater projects primarily serve existing developed areas, assigning highest priority to projects that meet the needs of urban and community development centers.

GROWTH MANAGEMENT PRINCIPLE #3. Encourage the revitalization and enhancement of existing development centers in the coastal zone through technical assistance and federal and state financial support for residential, commercial and industrial development.

(12) Authorities for Program Policies

M.G.L. c. 9, §§ 26-27D: Massachusetts Historic Commission Act
950 CMR 71.00: Protection of Properties Included on the State Register of Historic Places

M.G.L. c. 21, § 17A: Public Access Board

M.G.L. c. 21, § 17B: Scenic and Recreational Rivers Act
302 CMR 3.00: Scenic and Recreational Rivers Orders

M.G.L. c. 21, §§ 26-53: Massachusetts Clean Waters Act
314 CMR 3.00: Surface Water Discharge Permit Program
314 CMR 4.00: Massachusetts Surface Water Quality Standards
314 CMR 5.00: Ground Water Discharge Permit Program
314 CMR 6.00: Ground Water Quality Standards
314 CMR 7.00: Sewer System Extension and Connection Permit Program
314 CMR 9.00: 401 Water Quality Certification
314 CMR 15.00: Oil Pollution Control

M.G.L. c. 21, §§ 54-58: Mineral Resources Act

M.G.L. c. 21A, § 4A: Massachusetts Coastal Zone Management Office
301 CMR 20.00 - 26.00: Massachusetts Coastal Zone Management Regulations

M.G.L. c. 21A, § 2(7): Areas of Critical Environmental Concern
301 CMR 12.00: Areas of Critical Environmental Concern

M.G.L. c. 21A, § 13: State Environmental Code
310 CMR 11.00: Application & Administration Environmental Code, Title 1
310 CMR 15.000: On-site Sewage Disposal, Title 5

M.G.L. c. 21A, § 14: Reclamation of Degraded Waters

M.G.L. c. 21C, §§ 4, 6, and M.G.L. c. 21E, § 6: Hazardous Waste Management Act
310 CMR 30.00: Hazardous Waste Regulations

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M.G.L. c. 21E, §§ 3(c),(d),(e), 3A(d),(f),(g),(m), 3B, 5A, 6, 7, 14; c. 21A, § 2(28); c. 21C;
and c. 111, § 160: Massachusetts Contingency Plan
310 CMR 40.0000: Massachusetts Contingency Plan

M.G.L. c. 30, §§ 61-62H: Massachusetts Environmental Policy Act
301 CMR 11.00: MEPA Regulations

M.G.L. c. 40A: State Zoning Act

M.G.L. c. 40C: Historic District Act

M.G.L. c. 81: Public Ways and Works, State Highways

M.G.L. c. 91: Public Waterfront Act
310 CMR 9.00: Waterways Regulations

M.G.L. c. 93, § 29, and c. 93D, § 1: Outdoor Advertising Board
711 CMR 3.00: Outdoor Advertising Board

M.G.L. c. 111, § 17: Department of Public Health, Environmental Protection

M.G.L. c. 111, § 127A: State Sanitary Code

M.G.L. c. 111, §§ 142A-142J: Massachusetts Clean Air Act
310 CMR 7.00: Air Pollution Control

M.G.L. c. 111, §§ 150A-150B: Community Sanitation Program

M.G.L. c. 130, §§ 1-104: Marine Fisheries
322 CMR 3.00 - 12.00, 14.00: Marine Fisheries Regulations

M.G.L. c. 130, § 105: Coastal Wetlands Restriction Act
310 CMR 12.00: Adopting Coastal Wetlands Orders

M.G.L. c. 131, § 40: Wetlands Protection Act
310 CMR 10.00: Wetlands Protection

M.G.L. c. 131, § 40A: Inland Wetland Restriction Act
310 CMR 13.00: Adopting Inland Wetland Orders

M.G.L. c. 131A: Massachusetts Endangered Species Act
321 CMR 8.00: List of Endangered and Threatened Species
321 CMR 10.00: Massachusetts Endangered Species Regulations

M.G.L. c. 132A: Department of Environmental Management

M.G.L. c. 132A, § 11: Self Help Program
301 CMR 5.00: Self-Help and Urban Self-Help Programs

M.G.L. c. 132A, §§ 12A-16F, 18: Ocean Sanctuaries Act
302 CMR 5.00: Ocean Sanctuaries

M.G.L. c. 161A: Massachusetts Bay Transportation Authority

M.G.L. c. 164, §§ 69H-69Q: Energy Facilities Siting Board
980 CMR 9.00: Coastal Zone Facility Site Selection, Evaluation and Assessment

780 CMR: State Building Code

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Executive Order 149: FEMA and Floodplain Use

Executive Order 181: Barrier Beaches

Executive Order 194: Off-road Vehicles

Special Historic District Acts

Pazolt vs. Director of the Division of Marine Fisheries, *et al.*, April 20, 1994, MA Supreme Judicial Court

21.99: Boundary Appendix

The following roads depict the inland boundary of the Coastal Zone. (For consistency, the actual boundary is 100 feet inland of the landward side of the road.)

As stated in the Coastal Zone Chapter of the MCZM Program Plan, where the road may have excluded some significant resource areas, the boundary line departs from the road to encompass them. Tidal rivers and adjacent uplands are included, at a minimum, to the extent of vegetation affected by measurably saline water. Anadromous fish runs are included, as well as their floodplains, to the fresh water breeding area, if such area is within a coastal town.

(1) Upper North Shore. At New Hampshire border follow Rt. 1 south to Rt. 110. Follow Rt. 110 west to I95. Follow I95 south over Merrimack River. Follow Ferry Road east to High Street into Newburyport. Take Rt. 1 south to Boston Road. Go west on Boston Road, then south on Middle Street. Turn west onto Orchard Street to Central Street. Turn southeast on School Street, then east on Elm Street to Rt. 1. Take Rt. 1 south to Central Street in Rowley. Take Central Street into Rowley center. Follow Rt. 1A and Rt. 133 through Ipswich. At Candelwood Golf Club, turn southwest onto Candelwood Road. Take Chebacco Road south to Choate Road. Follow Choate back to Rt. 133. Follow Rt. 133 into Essex. Take right onto Martin Street heading southwest. Take Western Avenue. Turn left onto Apple heading southeast. Then head north on Southern Avenue back to Rt. 133. Follow Rt. 133 to Rt. 127. Follow Rt. 127 through Manchester into Beverly.

(2) Cape Ann. At Rt. 128 and Washington Street interchange, follow Washington Street south into Gloucester center. Take a left on Prospect to Friend Street. Take Webster Street to Eastern Avenue. Take a right onto Witham Street to Starknought. Follow Starknought into Rockport joining Thatcher Road (Rt. 127A). Follow Thatcher Road into South St. Take a left onto Prospect Street. Take Summer Street west to Parker St. Then take Railroad Avenue to Granite Street. Follow Granite Street (Rt. 127) to Curtis St. Follow Quarry Road from the end of Curtis St. southwest to Leverett St. Follow Leverett St. to Washington - to N. Kilby Street - to Colburn St. then back to Washington St. Take a left onto Dennison St. to Holly Street back to Washington. Follow Stanwood St. to Cherry St. to Poplar St. back to Washington St. and the Rt. 12 rotary.

(3) Lower North Shore. Southwest on Rt. 127 from Manchester into Beverly to Lothrop St. Southwest on Lothrop St. to Water St. Northwest on Water St. to Rantoul St. North on Rantoul St. to Elliot St. Northeast on Elliot St. (also Rt. 62) to Rt. 128. Rt. 128 south to Andover St. (Rt. 114). Southeast on Rt. 114 to Rt. 107. East on Rt. 107. South on Rt. 1A through Salem, and Swampscott to Lynn. North 1 block to Commercial St. in Lynn. West on Boston and Maine Railroad to Summer St. West on Summer St. to Hamilton St. (was Hesper St.). West on Hamilton St. and then on to Holland. Left onto Elm St. and on to Central St. Central St. to Winter Street. Winter St. to Lincoln. Follow Lincoln to the Saugus/Revere line. Exception - Follow line 100 feet inland of 100 year flood contour around Forest River (between Salem and Marblehead) ending landward extension at Boston and Maine Railroad tracks.

21.99: continued

(4) Boston Boundary. Southwest on Salem St. (Lincoln St.) from the Saugus/Revere line. Southeast on the Bennett Highway. Through rotary then southeast on Rt. 1. South on Rt. 1 to 1A (Revere Beach Parkway) to intersection with northeast expressway. Southwest on N.E. expressway to Webster Avenue. Southeast on Webster Avenue to Eastern Avenue. West on Crescent Ave. to Broadway. South on Broadway to railroad. Southeast on railroad to Willow St. South on Willow St. to Congress Avenue to Park Street. West on Park Street to Chelsea Square. Northwest on Second Street to railroad. West on railroad to Rt. 16. West on Rt. 16 to Amelia Earhart Dam Road. Cross river on Amelia Earhart Dam Road to railroad. South on railroad (Somerville) to Mystic Avenue (Rt. 38). Southeast on Mystic Avenue to Sullivan Square (Charlestown). From Sullivan Square east on Medford Street to Rt. 95. Southwest on Rt. 95 to Fitzgerald Expressway (Rt. 3). South on Rt. 3 to Penn Central railroad (before interchange 16). Northeast on railroad track which intersects with Dorchester Ave. At this intersection a short unnamed street connects with B Street. Northeast on B Street to Second St. Southeast on Second St. to Dorchester St. Northeast on Dorchester St. to East Second St. East on East Second St. to P Street. South on P Street to Swallow St. West on Swallow St. to Scott St. South on Scott St. to East 8th St. West on East 8th St. to Patterson St. Southwest on Patterson to Old Colony Ave. South on Old Colony Ave. to Rt. 3. Rt. 3 to Neponset interchange. Rt. 203 west to Hallet St. South on Hallet St. to Hilltop St. West on Hilltop St. to Granite St. North on Granite St. to Minton St. West on Minton St. to Adams St. South on Adams St. to Dorchester Ave. South on Dorchester Ave. to Milton town line (middle of Neponset River). Milton town boundary southeast to intersection with boundary of Neponset River Reservation. Follow reservation boundary east, southeast, then northeast across Rt. 3 to intersection with Granite Ave. Then southeast on Granite Ave. to West Squantum St. Follow West Squantum St. to intersection of Hancock Street (Rt. 3A). Follow Hancock Street south to Southern Artery. Southeast on Southern Artery (Rt. 3A) to railroad just south of Fore River. East on railroad to intersection with Main St. (Hingham). East on Main St. which becomes Winter St. to Rt. 228 (East St). Northeast on Rt. 228 to Summer St. North on Summer St. to Rockland St. Northeast on Rockland St. to intersection with Summer St. South on Summer St. to Rt. 3A. East on Rt. 3A to Cohasset

(5) South Shore. South on Rt. 3A through Cohasset to Scituate. East on Henry Turner Bailey Rd. to railroad bed. South on railroad bed to Driftway. West on Driftway to intersection of Rt. 3A & Rt. 123. West on Rt. 123 to River St. South on River St. to Elm St. S. on Elm St. to West Elm St. South on West Elm to Oldham St. East on Oldham to Barker St. (Rt. 14). North on Barker St. to Rt. 53. North on Rt. 53 to Water St. Northwest on Water St. to Rt. 139. East on Rt. 139 to Union St. North on Union St. to Highland St. East on Highland St. to Spring St. Northeast on Spring St. to Rt. 3A. Rt. 3A to Old Plain St. West on Old Plain St. to Cross St. South on Cross St. to Ocean St. West on Ocean St. to Mt. Skirgo St. West on Mt. Skirgo to North St. Southwest on North St. to Myrtle St. West on Myrtle St. to Union St. Southeast on Union St. to Keene St. North on Keene St. to River St. East on River St. to Temple St. Southeast on Temple St. to Franklin St. North on Franklin St. to Acorn St. North on Acorn St. to Rt. 3A

(6) Plymouth Bay. South on Rt. 3A through Duxbury to Main Street, Kingston. West on Main Street to Elm Street. South on Elm Street to Brook Street (Rt. 80). East on Brook Street to Rt. 3A. South on Rt. 3A to Bourne. Follow the Bourne-Plymouth town line southwest to Red Brook Road (Buzzards Bay region).

(7) Mount Hope Bay. Start in Seekonk on Rt. 6 at the Rhode Island border southeast to Barney (Rehoboth). North on Barney. East on County. South on Mason. Southeast on Rt. 6 (Swansea). North and East on Millford. South on Hortonville. East on Main. South on Elm. South on Lees River Road, Somerset. Southeast on Rt. 6 (Somerset). North on 138. West on Main Street (Dighton). North and East on Elm. North on Rt. 138 to Taunton/Dighton corporate line. Along Dighton/Taunton line in Three Mile River to Taunton River, north along Berkley-Taunton line in the Taunton River. East across Dirt Rd. at approximately 41°, 51', 45" N, 71°, 06', 15" W. North on Berkley. South on Forest. East on Elm. South on S. Main. South on N. Main (Freetown). East on Mill. East on Slab Bridge Road. South on N.Y./New Haven Railroad. North on High. South on S. Main. South on N. Main, Fall River. South on Western Expressway to I 95. Southwest on Rt. 138 (Broadway). West on Williams St. South on Bay St. to Rhode Island border.

21.99: continued

(8) Buzzards Bay. West from Bourne/Wareham town line on Red Brook Road. West on Route 6-28. Northwest on Route 25. Southwest on I 195. East on Point Road (Marion). West and south on Route 6 through Marion, Mattapoisett and some of Fairhaven. South on Shaw Road, Fairhaven. West on Shaw Rd. North on Weeden. West on railroad grade. South on Pleasant. West on Cedar Street. North on Fort Street. West on Church. North on Main. North on South Main, Acushnet. West on Main, Acushnet, New Bedford. South on River. West on Howard. South on Riverside. West on Coffin South on Belleville. West on I-195. South on Front. West on Wamsuta. South on Route 18. West on Elm. South on Haus East on Union. South on 2nd. South on MacArthur Drive. South on Front. East on Gifford. South on Harbor. East on Cove. South on Cleveland. East on Rodney. South on Cleveland. East on Butler. South on Swan. South on Mina. South on Lighthouse Lane. South on Belmont. West on Portland. South on Fort. West on Rodney French Boulevard. North on Brock. West on Cove. South on Padanaram to Dartmouth. West on Rogers. South on Dartmouth. West on Prospect. North on Elm. West on Russells Mills. South on Tucker. Southwest on Russells Mills. Southwest on Horseneck Road to Westport. North on Horseneck Road. North on New Pine Hill Road. North on Pine Hill Road. West on Country Road. North on Reed. North on Forge. West on Route 177. South on Drift. West on Hicksbridge. North on Main. West on Adamsville to Rhode Island border.

(9) Cape Cod and the Islands. The entire Cape and the islands of Nantucket and Martha's Vineyard and the Elizabeth Islands are included in the Massachusetts Coastal Zone.

REGULATORY AUTHORITY

301 CMR 21.00: M.G.L. c. 21A, §§ 2, 4A; 16 U.S.C. §§ 1451 through 64; 15 C.F.R. 930.

(PAGES 193 THROUGH 210 ARE RESERVED FOR FUTURE USE.)